

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:08-cv-00109-W

DR. JOHN POWDERLY II AND)
CAROLINA BIOONCOLOGY INSTITUTE,)
PLLC,)
)
Plaintiffs,)
)
	vs.
)
)
BLUE CROSS AND BLUE SHIELD OF)
NORTH CAROLINA; et. al.,)
)
Defendants.)
)

ORDER

THIS MATTER is before the Court on Defendant's Motion to Strike the New Ferner Expert Reports and to Bar Him from Testifying at Trial (Doc. No. 174) and Defendant's Motion to Quash Plaintiff's Trial Subpoena (Doc. No. 181). For the reasons stated in open court following a hearing, the Motion to Quash is DENIED. Mr. Robert J. Greczyn's appearance in Court, however, shall be limited to the afternoon of Tuesday, December 8, 2009, beginning at 2:00 p.m. and continuing until 6:00 p.m. that same day.

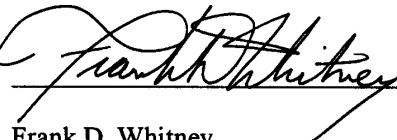
As to the Motion to Strike, the Court has taken that matter under advisement and will render a ruling following a hearing on a related matter on November 30, 2009. In the meantime, as the Court stated in its oral ruling, the Court has construed Plaintiff's Second Amended Complaint as stating a cause of action for tortious interference with prospective economic advantage. As such, Defendant may file a motion for summary judgment on this claim no later than Monday, November 23. Plaintiffs may file their response no later than Wednesday, November 25. Both briefs must be no longer than 1,000 words, exclusive of attachments. The Court will hear brief oral argument at

the pretrial conference on November 30, 2009, and oral arguments shall be limited to ten minutes for each side.

Finally, as a result of this additional briefing and argument, the Court will extend the deadline for pretrial submissions, including the jointly prepared pretrial order and motions in limine to Wednesday, December 2, 2009. The Court will conduct a pretrial conference via telephone on Thursday, December 3, 2009, at 2:00. Because of the number of counsel in this matter and because their location varies, the parties are directed to jointly arrange a conference call line and provide the Court with the appropriate call-in information.

IT IS SO ORDERED.

Signed: November 18, 2009



Frank D. Whitney
United States District Judge

